

## **REMARKS**

Claims 1-12 are pending in the application.

By the foregoing Amendment, claims 1-4 and 8 are amended. New claim 12 is added. The specification is amended to correct obvious typographical and transcription errors.

These changes are believed not to introduce new matter, and entry of the Amendment is respectfully requested.

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections, and withdraw them.

### **Rejections under 35 U.S.C. § 102**

In paragraph 4 of the Office Action, claims 1, 4, 5, 7, 9, and 10 were rejected under section 102(e) as being anticipated by Toyooka.

The Office Action equates Toyooka's base films 3 and 4, rather than Toyooka's resin molded article 17, with the "telephone body formed of a plastic material" of claim 1. Toyooka discloses that the base films 3 and 4 can be plastic resin films, but does not teach or suggest that the base films 3 and 4 are or can be molded. In fact, the only portion of Toyooka's telephone closure that is molded is the molded article 17 (see column 10, lines 43 *et seq.*). In order to clarify the correspondence between the telephone body of the present invention and Toyooka's resin molded article 17, claim 1 is amended to further specify that the plastic material is molded, as disclosed at page 6, line 10.

Also, it is respectfully submitted that the Office Action improperly relies on selected portions of Toyooka, instead of reading the Toyooka patent as a whole.<sup>1</sup> For example, if Toyooka is read as a whole, rather than with reference to isolated, selected portions, it is apparent that:

- Toyooka's Figures 3 and 4 are shown inverted, relative to Figures 1 and 2
- The "transfer layer" designated by the number "2" in Toyooka's Figure 2 is simply a specific example of the "foil decorating film" designated by the number "1" in Figure 1<sup>2</sup>
- Toyooka's Figures 3 and 4 are merely more detailed views of the "foil decorating film" designated by the number "1" in Figure 1 and the "transfer layer" designated by the number "2" in Figure 2<sup>3</sup>, and

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<sup>1</sup> In *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965), the Court of Customs and Patent Appeals cautioned that "it is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art."

As subsequently noted by the Federal Circuit in *Panduit Corp. v. Dennison Manufacturing Co.*, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987), it is settled law that "a prior patent must be considered in its entirety, i.e., as a whole, including portions that would lead away from the invention in suit, *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1550, 220 USPQ 303, 311 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)."

<sup>2</sup> Toyooka states at column 8, lines 1-6:

The cover may also be such that the foil-decorating film 1, in the form of a so-called transfer layer 2, is caused to adhere to the transparent resin component 17, and such that the base film 4 is made to peel off, with the transfer layer 2 alone kept in adhesion to the transparent resin molded article 17 (FIG. 5).

<sup>3</sup> Toyooka states at column 9, lines 14-24:

The foil-decorating film 1 comprises at least the symbol layer 6 and the hiding layer 7 defining the transparent display window 21, both of which are laminated

(continued...)

- To be properly interpreted relative to Toyooka's Figure 5, Figures 1-4 must be oriented with the element numbered "21" facing the exterior of the telephone, as shown in Figure 5

When Figures 1-4 are properly understood, with the transparent guard plate oriented towards the exterior surface of the molded article 17 (which corresponds to the front telephone body portion 3 of the present invention), Toyooka does not teach applying adhesive or coloring or decoration to the rear face of a telephone body formed of a molded plastic material (that is, the face on the interior of the telephone), but rather to the front face of a telephone body. In order to illustrate the correct interpretation of Toyooka's drawings, an attachment is submitted herewith showing Toyooka's Figure 5 side-by-side with Figures 1-4 in their correct orientation relative to Figure 5.

Claim 4 has been amended in the same manner as claim 1, in order to clarify that the recited body cannot correspond to Toyooka's base films 3 and 4, which are not molded.

With respect to claim 4, the Office Action states that Toyooka teaches that "fine powders of colored ... or lustrous material is dispersedly included *between* the transparent materials..." However, claim 4 recites that the colored or lustrous materials are "dispersedly included *in* said section," not "*between*." It is therefore respectfully submitted that the Office Action's characterization of Toyooka is not in accordance with the claim language, and that Toyooka does

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<sup>3</sup>(...continued)

on the transparent base film 3, and laminated further thereon is the transparent adhesive layer 15 (FIG. 3). The foil-decorating film 1 may also be such that on a base film 4 there are formed at least the surface protective layer 5 defined by a transparent ink, the symbol layer 6, the hiding layer 7 defining the transparent display window 21, and the transparent adhesive layer 15 sequentially laminated to form the transfer layer 2 (FIG. 4).

not teach or suggest dispersedly including the materials *in* the transparent section, as recited in claim

4.

With respect to claims 5 and 7, the Office Action states:

[T]oyooka further teaches that [*sic*] a telephone comprising: a display having a display panel (see figure 1 and item 21), A [*sic*] transparent guard plate disposed outside [*sic*, said] display panel, wherein said transparent guard plate includes a transparent section having an approximate same size and shape as the display panel in a position corresponding to said display panel and a peripheral section around said transparent section, said peripheral section being formed of a transparent material (see column 9 and lines 34-38, figure 5 and items 8 and 21)

It is unclear from this statement whether the Office Action is equating Toyooka's transparent display window 21 with the recited display panel or with the recited guard plate or both. It is understood that the Office Action equates Toyooka's black color hiding portion 8 with the recited peripheral section.

Claims 5 and 7 recite "a transparent guard plate disposed *over* [not "outside," as stated in the Office Action] said display panel." They further recite that the transparent guard plate includes:

- (1) "a transparent section having an approximate same size and shape as the display panel in a position corresponding to said display panel" and
- (2) "a peripheral section around said transparent section"

Claims 5 and 7 further require that the peripheral section be "formed of a *transparent* material."

Toyooka describes the display panel 21 at column 5, lines 51-53 as follows: "The transparent display window 21 is a portion which is previous [*sic*, pervious] to light so as to enable visual sight of indications from a liquid crystal display or the like mounted inside the cellular phone top cover 20." The present application defines the display panel as the panel that displays information such as the telephone number being dialed or from which a telephone call is being received (see page 1,

lines 17-22). Thus, Toyooka's display panel 21 performs the same function as the transparent section recited in claims 5 and 7. However, Toyooka does not provide an illustration of the liquid crystal display or otherwise describe its dimensions.<sup>4</sup> Toyooka therefore does not teach or suggest a transparent section having an approximate same size and shape as the display panel in a position corresponding to said display panel.

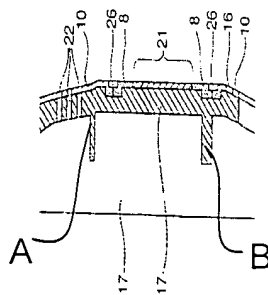
With respect to the "peripheral section" recited in claims 5 and 7, the portion of Toyooka cited in the Office Action, column 9, lines 34-38 states:

The hiding layer 7 of the foil-decorating film 1 is constructed of the black color hiding portion 8, the first color hiding portion 10, and the second color hiding portion 11, and the transparent display window 21 may be formed by being surrounded by one of the hiding portions.

Toyooka explicitly states that item 8 is a "black hiding portion," and that it is formed by lamination over the base film 4( see column 9, lines 39-43). Toyooka further states at column 9, lines 43-47 that "the transparent display window 21 surrounded by the black hiding portion 8 and the white hiding portion 12 is defined as a no-hiding-layer portion in which no black hiding layer 9 or no white hiding layer 12 is formed." In other words, *the transparent display window 21 is surrounded by an opaque*

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<sup>4</sup> Possibly the unnumbered projections in Toyooka's Figure 5, reproduced in part below with the projections indicated by the letters "A" and "B," are intended to receive and retain the liquid crystal display. If so, then the display window 21 is considerably smaller than the display panel, contrary to the requirement of claims 5 and 7.



*perimeter including the black hiding portion 8*, and not a section “formed of a transparent material” as required by claims 5 and 7.

Claim 5 further recites “an adhesive layer provided *only* on the rear face of *said peripheral section*.” As is shown in Toyooka’s Figure 1, the adhesive layer 15 is applied to the entire rear face of the display window, not just the peripheral section, as required by claim 5.

In view of the foregoing, it is respectfully submitted that Toyooka does not teach or suggest the invention as recited in independent claims 1, 4, 5, and 7, and claims 9 and 10 depending from claim 1; and that the rejection should be withdrawn.

#### Rejections under 35 U.S.C. § 103

##### 1. Claims 2, 3, 6, and 11

In paragraph 5 of the Office Action, claims 2, 3, 6, and 11 were rejected under section 103(a) as being unpatentable over Toyooka in view of Fischer et al.

Claim 6 recites the same display and transparent guard plate as claims 5 and 7, and is believed to be patentable over Toyooka in view of Fischer et al. for the same reasons as discussed above with respect to the rejection of claims 5 and 7 based on Toyooka alone.

The Office Action equates Toyooka’s base films 3 and 4 with the “body formed of a plastic material” of claims 2 and 3. Claims 2 and 3 have been amended in the same manner as claim 4, in order to clarify that the recited body cannot correspond to Toyooka’s base films 3 and 4, which are not molded. As noted above, the only portion of Toyooka’s telephone closure that is molded is the molded article 17 (see column 10, lines 43 *et seq.*).

Claim 2 recites “a luminous material mixed in said section formed of said transparent material by a predetermined ratio.” Although Fischer et al. teaches a composition of a fluorescent material, and that it can be mixed into plastics in order to produce colored moldings, it does not teach or suggest mixing it in any particular ratio, much less a “predetermined ratio” as recited in claim 2, or the specific ratio of 5% to 10% as recited in new claim 12.

Claim 3 recites “a painted layer formed on the rear face of said section formed of said transparent material, said painted layer including a luminous material in the form of fine fragments,” while claim 6 recites “a painted layer formed only on the rear face of said peripheral section, said painted layer including a luminous material in the form of fine fragments.”

The Office Action does not appear to distinguish between the recitation in claim 2 of a “mixed in” luminous material and the recitation of claims 3 and 6 of a “painted layer” including a luminous material. Fischer et al. does teach adding the fluorescent pigments to printing inks. However, as discussed above, Toyooka does not teach applying coloring or decoration to any portion of the *rear* face of the telephone body; and further, Toyooka does not teach applying coloring or decoration to the *rear* face of any portion of the guard plate. On the contrary, Toyooka’s foil decorating layer 1 and base film 3 referenced in the Office Action are applied surrounding the edges and over the front face, respectively, of the display window 21.

In view of the foregoing, it is respectfully submitted that Toyooka and Fischer et al. in combination do not teach or suggest the invention as recited in independent claims 2, 3, and 6, and claim 11 depending from claim 3; and that the rejection should be withdrawn.

## 2. Claim 8

In paragraph 6 of the Office Action, claim 8 was rejected under section 103(a) as being unpatentable over Toyooka in view of Fischer et al, and further in view of Yoshida et al.

The last paragraph of claim 8 has been amended to correct a grammatical error and to read more idiomatically. The amendments to claim 8 are not believed to affect its scope.

Claim 8 recites the same display and transparent guard plate as claims 5 and 7, and is believed to be patentable over Toyooka in view of Fischer et al. and Yoshida et al. for the same reasons as discussed above with respect to the rejection of claims 5 and 7 based on Toyooka alone. It is therefore respectfully submitted that the rejection should be withdrawn.

## Conclusion

All objections and rejections have been complied with, properly traversed, or rendered moot. Thus, it now appears that the application is in condition for allowance. Should any questions arise, the Examiner is invited to call the undersigned representative so that this case may receive an early Notice of Allowance.



Favorable consideration and allowance are earnestly solicited.

Respectfully submitted,

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*Attachment: Figures 1-5 of U.S. Patent No. 6,504,928*